

FIRST REGULAR SESSION

SENATE BILL NO. 53

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Pre-filed December 1, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

0367S.01I

AN ACT

To amend chapter 34, RSMo, by adding thereto one new section relating to restricting public contracts with entities that invest in the energy sector in Iran.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 34, RSMo, is amended by adding thereto one new section, to be known as section 34.225, to read as follows:

34.225. 1. This section shall be known and may be cited as the "Iran Energy Divestment Act".

2. As used in this section, the following terms shall mean:

(1) "Awarding body", a department, board, agency, authority, or officer, agent, or other authorized representative of the public entity awarding a contract for goods or services;

(2) "Energy sector", activities to develop petroleum or natural gas resources or nuclear power;

(3) "Financial institution", the term as used in Section 14(5) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note);

(4) "Iran", any agency or instrumentality of Iran;

(5) "Person", any of the following:

(a) A natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(b) Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3));

(c) Any successor, subunit, parent company, or subsidiary of, or company under common ownership or control with, any entity

22 described in paragraph (a) or (b) of this subsection;

23 (6) "Proscribed investor", a person that directly engages in
24 investment activities in the energy sector in Iran. A person engages
25 directly in investment activities in the energy sector in Iran if any of
26 the following is true:

27 (a) The person directly invests twenty million dollars or more in
28 the energy sector in Iran;

29 (b) The person provides oil or liquified natural gas tankers, or
30 products used to construct or maintain pipelines used to transport oil
31 or liquified natural gas, for the energy sector in Iran;

32 (c) The person is a financial institution that directly provides a
33 commercial loan of twenty million dollars or more to another person,
34 for forty-five days or more, if such financial institution had actual
35 knowledge that such person would use the proceeds from the
36 commercial loan to invest in the energy sector in Iran;

37 (7) "Public entity", the state or any officer, official, authority,
38 board, or commission of the state and any county, city, or other
39 political subdivision of the state, or any institution supported in whole
40 or in part by public funds.

41 3. A proscribed investor is ineligible to, and shall not, bid on,
42 submit a proposal for, or enter into, a contract with a public entity for
43 goods or services in excess of one million dollars.

44 4. A public entity shall require a person that submits a bid or
45 proposal to, or otherwise proposes to enter into a contract with, a
46 public entity with respect to a contract for goods or services in excess
47 of one million dollars, that currently has business activities or other
48 operations outside of the United States, to certify that the person is not
49 a proscribed investor. A person may rely on one or more lists of
50 persons engaging in investment activities in the energy sector in Iran
51 developed by other states acting under the authority of the Federal
52 Comprehensive Iran Sanctions Accountability and Divestment Act of
53 2010 when certifying that it is not a proscribed investor.

54 5. (1) The awarding body shall report to the attorney general the
55 name of the person that the awarding body determines has submitted
56 a false certification together with its information as to the false
57 certification. The attorney general has the sole authority to determine
58 whether to bring a civil action against the person to collect the penalty

59 described in paragraph (a) of subdivision (2) of this subsection. No
60 private right of action is created by this section. If it is determined in
61 the action that the person submitted a false certification, the person
62 shall pay all costs and fees the plaintiff incurred in a civil action,
63 including costs incurred by the awarding body for investigations that
64 led to the finding of the false certification and all costs and fees
65 incurred by the attorney general.

66 (2) If the attorney general determines that a person has
67 submitted a false certification under subsection 4 of this section, the
68 person shall be subject to the following:

69 (a) A civil penalty of two hundred fifty thousand dollars;

70 (b) Termination, without penalty, of an existing contract with the
71 awarding body;

72 (c) Ineligibility to bid on, or enter into, a contract with a public
73 entity for a period of three years from the date of the determination
74 that the person submitted the false certification.

75 6. (1) If the awarding body determines that a person that has an
76 existing contract with the awarding body, has submitted a pending bid
77 or contract proposal to, or otherwise proposes to enter into a contract
78 with the awarding body by using credible information available to the
79 public and determines that the person is a proscribed investor, the
80 awarding body shall provide ninety days written notice of its intent to
81 not enter into or renew a contract for goods or services with the
82 person. The notice shall specify that the person may become eligible
83 for a future contract for goods or services with the awarding body if it
84 ceases its direct engagement in investment activities in the energy
85 sector in Iran.

86 (2) The awarding body shall provide a person determined to be
87 a proscribed investor with an opportunity to demonstrate in writing to
88 the awarding body that it is not engaged in investment activities in the
89 energy sector in Iran. If the awarding body determines that the person
90 is not engaged in investment activities in the energy sector in Iran, the
91 person shall be eligible to enter into or renew a contract for goods or
92 services with the awarding body.